

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

---

JERPAUL D. SPENCER

Case No.: 16-CV-0662

Plaintiff,

v.

CITY OF MILWAUKEE, et al.

Defendants.

---

**PARTIES' JOINT RULE 26(a)(3) DISCLOSURES AND  
CIVIL L.R. 16(c) PRETRIAL REPORT**

---

The parties, by their attorneys, submit their Rule 26(a)(3) disclosures and Civil Local Rule 16(c) joint pretrial report, as follows:

**1. STATEMENT OF CLAIMS**

- a. Unlawful seizure;
- b. Unlawful search;
- c. Excessive force;
- d. Failure to intervene; and,
- e. Violation of constitutional rights.

Between May and July 2011, Plaintiff JerPaul Spencer alleges that he was illegally stopped, searched and assaulted by certain members of the Milwaukee Police Department, including Defendants Michael Vagini. Plaintiff also claims that Officer Knight was a witness to at least one of these searches, and failed to intervene to prevent the harm to him.

Plaintiff also claims that around June or July of 2011, Defendant Vagnini stopped him, and conducted an illegal “pat down” search of his person.

In addition, on July 4, 2011 Plaintiff was taken by Officers Valuch and Garland on grounds that the officers suspected that he had swallowed narcotics that he purportedly intended to sell, and the officers had Plaintiff Spencer’s stomach pumped by certain medical professionals at Columbia St. Mary’s Hospital. Officers Valuch and Garland did not have a warrant to have Mr. Spencer’s stomach pumped, did not obtain a warrant, and no drugs were found. Subsequently, Mr. Spencer was booked and incarcerated at the Milwaukee County Jail for obstruction for three days.

Plaintiff seeks money damages for these various assaults and for the failure of Defendants for failing to take reasonable measures to protect Plaintiff from serious harm or assault.

## **2. STATEMENT OF ISSUES.**

- a. Whether Defendant Michael Vagnini unlawfully seized, searched and used excessive force against Jerpaul Spencer;
- b. Whether Defendant Jacob Knight failed to prevent Michael Vagnini from taking an unlawful action;
- c. Whether Defendants Keith Garland and Michael Valuch unlawfully seized Jerpaul Spencer;
- d. Whether Defendants Garland and Valuch violated Jerpaul Spencer’s constitutional rights by permitting an unlawful medical procedure to be performed on him;
- e. Whether the Defendants conduct caused the Plaintiff harm; and

f. Whether the Defendants' conduct was malicious or in reckless disregard of Plaintiff's rights. If so, what amount of money, if any, is appropriate to punish the Defendants for their conduct and to serve as an example or warning to the Defendants and others not to engage in similar conduct in the future.

**3. ESTIMATED TIME NEEDED FOR TRIAL**

Four to five days.

**4. STIPULATIONS**

a. Officers Garland and Valuch did not obtain a warrant to have Jerpaul Spencer searched by medical professionals.

b. The parties do not dispute that the Defendants acted under "color of law" at all material times.

**5. NAMES OF WITNESSES EXPECTED TO TESTIFY.**

Plaintiff expects to call the following individuals:

1. Plaintiff Jerpaul Spencer  
-Inmate at Oshkosh Correctional Facility
2. Jerreeces Blackmon  
-Inmate at Columbia Correctional Facility
3. James Merritt  
-Inmate at New Lisbon Correctional Facility
4. Jerry Payne (Laundry worker, Milwaukee, WI)
5. Gregory Crump (Truck driver, Milwaukee, WI)
6. Jeriece Blackmon (Employment unknown, Milwaukee, WI)
7. Lacrease Payne (Employment unknown, Milwaukee, WI)
8. Ida Williams (Employment unknown, Milwaukee, WI)
9. Marquee Williams (Employment unknown, Milwaukee, WI)

10. Sean P. Quinn, D.O. (Doctor, Brookfield, WI)
11. Nathaniel Brackett, M.D. (Doctor, Elkhorn, NE)
12. Robert L. Riepenhoff, M.D. (Doctor, Milwaukee, WI)
13. Capt. David Salazar, Jr. (Police officer, Milwaukee, WI)
14. Defendant Michael Vagini (Sales Mgr., Hales Corners, WI)
15. Defendant Jacob Knight (Consultant, Pewaukee, WI)
16. Defendant Michael Valuch (Police officer, Milwaukee, WI)
17. Defendant Keith Garland (Police officer, Milwaukee, WI)
18. Police Chief Jeffrey B. Norman (Police officer, Milwaukee, WI)
19. Jason Mucha (Police officer, Milwaukee, WI)
20. Captain Diane Rowe (Police officer, Milwaukee, WI)
21. Asst. Police Chief John Hagen (Police officer, Milwaukee, WI)
22. Jesse Busshardt (Police officer, Milwaukee, WI)
23. Gregory M. Kuspa (Police officer, Milwaukee, WI)
24. Jeffrey Kline (Police officer, Milwaukee, WI)
25. Paul Martinez (Police officer, Milwaukee, WI)
26. Denise Rueda (Police officer, Milwaukee, WI)
27. Any witness identified by Defendants; and
28. Any rebuttal witnesses, as necessary.

The Defendants expect to call the following witnesses, all of whom may be contacted through Defendants' counsel:

1. Dawn (last name unknown) (Registered Nurse at Columbia St. Mary's on July 4, 2021)

2. Any other medical personnel involved in the treatment of Jerpaul Spencer on July 4, 2011

3. Any witness identified or called by Plaintiff, including the names identified by Plaintiff above

**6. STATEMENT OF BACKGROUND OF ALL EXPERT WITNESSES**

N/A.

**7. LIST OF EXHIBITS**

Plaintiff's proposed exhibit list is attached as **Exhibit 1**.

Defendants' proposed exhibit list is attached as **Exhibit 2**.

**8. DEPOSITION DESIGNATIONS**

N/A. Depositions only for impeachment purposes.

**9. NONSTANDARD VOIR DIRE QUESTIONS**

The parties joint list is attached hereto as **Exhibit 3**.

**10. PROPOSED JURY INSTRUCTIONS**

1.01  
1.02  
1.03  
1.04  
1.05  
1.06  
1.07  
1.08  
1.09  
1.11  
1.11  
1.12  
1.13  
1.14  
1.15 \*\* (subject of motions in limine)  
1.16  
1.17  
1.18  
1.24  
1.25

1.27  
1.32  
1.33  
1.34  
2.01  
2.02  
2.03  
2.05  
2.06  
2.08  
2.11 \*\* (subject of motions in limine)  
2.14  
7.01  
7.02  
7.03 \*\* (subject of a motion in limine)  
7.04  
7.06  
7.07  
7.08  
7.09  
7.10  
7.12 \*\*Defendants object  
7.13 \*\*Defendants object  
7.22  
7.26  
7.27  
7.28

Defendants also have a modified jury instruction regarding Fourth Amendment (Unreasonable warrantless search), attached as **Exhibit 4**. Plaintiff objects to this proposed instruction.

**11. SPECIAL VERDICT**

-Plaintiff's proposed verdict form is attached as **Exhibit 5**.

-Defendants' proposed verdict form is attached as **Exhibit 6**.

**12. COURT REPORTER**

-Yes, the parties would like the Court to provide a court reporter.

**13. NUMBER OF JURORS**

The parties request the Court select eight (8) jurors.

Dated this 30th day of December, 2021.

**CADE LAW GROUP LLC**

By: s/ NATHANIEL CADE, JR.  
Nathaniel Cade, Jr. SBN:1028115  
Annalisa Pusick, SBN 1116379  
P.O. Box 170887  
Milwaukee, WI 53217  
(414) 255-3802 (phone)  
(414) 255-3804 (fax)  
[nate@cade-law.com](mailto:nate@cade-law.com)  
Attorneys for Plaintiff Jerpaul Spencer

**TEARMAN SPENCER**

City Attorney

Yolanda Y. McGowan, SBN 1021905  
Deputy City Attorney  
Anthony Jackson, SBN 1090574  
Assistant City Attorney  
800 City Hall  
200 East Wells Street  
Milwaukee, WI 53202  
(414) 286-2601 (phone)  
(414) 286-8550 (fax)  
[ymcgowan@milwaukee.gov](mailto:ymcgowan@milwaukee.gov)  
[lakack@milwaukee.gov](mailto:lakack@milwaukee.gov)  
Attorneys for Defendants